

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
JAMES BONINI
CLERK

2010 JUN 17 P 3:02

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST DIV. COLUMBUS

Epcon Communities Franchising

Plaintiff

vs.

Highland Homes LLC,

et al.

Defendants

Case No.

2 : 10 cv 565

Judge

JUDGE WATSON

Magistrate

MAGISTRATE JUDGE KING

NOTICE OF REMOVAL

1. Defendant Villas at Canterbury LLC, by its attorneys, E. Bruce Hadden and Mark S. Granger, and pursuant to 28 U.S.C., §1446(a), gives notice of its removal of this action from the Common Pleas Court of Franklin County, Ohio.

2. On or about May 5, 2010, Plaintiff Epcon Communities Franchising filed *Epcon Communities Franchising v. Highland Homes LLC*, Case No. 10CV-05-6864, in the Court of Common Pleas of Franklin County, Ohio (Exhibit 1 attached).

3. On or about May 17, 2010, Defendant Villas at Canterbury LLC was purportedly served with a copy of the Complaint (Exhibit 1) and summons (Exhibit 2 attached).

4. Defendant Villas at Canterbury LLC has not filed an answer to Plaintiff's Complaint, nor have any other responsive pleadings been filed in the Common Pleas Court of Franklin County, Ohio.

5. Additional named defendants, Norman G. Drake, Lynn R. Hinkley, Darrel E. Viereck, Lester A. Kinstad, Highland Homes LLC, and Bryant Soberg although named as additional parties defendants have never been served with process.

6. Defendant Villas at Canterbury LLC, by and through its counsel, has requested an extension of time to move or plead and Plaintiff has consented to an extension to move or plead.

7. Defendants Highland Homes LLC, Norman G. Drake and Bryant Soberg, while denying having been served with service process, enter a limited appearance for the sole purpose of consenting to this removal.

8. On information and belief Defendants Lynn R. Hinkley, Darrel E. Viereck, and Lester A. Kinstad, while denying having been served with service process, will and do consent to this removal.

9. On information and belief Plaintiff is an Ohio corporation authorized and existing under the law of the State of Ohio.

10. Defendant Highland Homes LLC is a Limited Liability Company organized and existing under the law of the State of South Dakota.

11. Defendant Villas at Canterbury is a Limited Liability Company organized and existing under the law of the State of South Dakota.

12. Defendants Norman G. Drake, Lynn R. Hinkley, Darrel E. Viereck, Lester A. Kinstad, and Bryant Soberg are citizens and residents of the state of South Dakota.

13. Plaintiff's Complaint seeks general damages in excess of Seventy Five Thousand Dollars (\$75,000.00) exclusive of interest and costs.

14. Jurisdiction in this United States District Court is premised upon 28 U.S.C., §1332(a)(3), complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy is in excess of Seventy Five Thousand Dollars (\$75,000.00) exclusive of interest and costs.

15. This action may be removed to this Court pursuant to 28 U.S.C., §1441(a).

16. This Notice of Removal is filed within thirty (30) days after Defendant Highland Homes LLC received a copy of the Plaintiff's Complaint and is timely filed pursuant to 28 U.S.C., 1446(b).

17. Contemporaneous with the filing of this Notice of Removal, Defendant Highland Homes LLC will give written notice to Plaintiff and file a copy of this Notice of Removal with the Clerk of the Court of Common Pleas, Franklin County, Ohio.



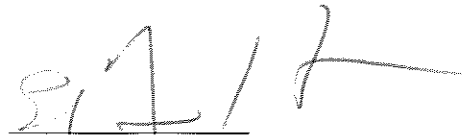
E. Bruce Hadden (0031753)
HADDEN CO., L.P.A.
132 Northwoods Boulevard
Columbus, Ohio 43235
(614) 431-2000 | (614) 436-4500 {fax}
ebhadden@aol.com

Mark S. Granger, (0068620).
GRANGER CO., L.P.A.
132 Northwoods Boulevard
Columbus, Ohio 43235
614.854.0615 | 614.885.7574 Fax
mgranger@grangercolpa.com

Trial Attorneys for Defendants Villas at Canterbury
LLC, Highland Homes LLC, Norman G. Drake and
Bryant Soberg

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Notice of Removal was served by ordinary U.S. Mail, postage prepaid, upon Michael G. Long, 52 E. Gay Street, Columbus OH 43215, on this 16 day of June, 2010.



E. Bruce Hadden